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POSTAL REGULATORY COMMISSION

In the Matter of:)
)
MAIL PROCESSING NETWORK) Docket No. N2012-1
RATIONALIZATION SERVICE)
CHANGES)

Hearing Room 200
Postal Regulatory Commission
901 New York Avenue, N.W.

Washington, D.C.

Volume 1
Wednesday, January 4, 2012

The above-entitled matter came on for prehearing conference, pursuant to notice, at 10:02 a.m.

BEFORE :

HON. RUTH Y. GOLDWAY, CHAIRMAN
HON. Nanci E. LANGLEY, VICE CHAIRMAN
HON. MARK ACTON, COMMISSIONER
HON. ROBERT G. TAUB, COMMISSIONER

APPEARANCES:

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(No Appearance.)

On behalf of Direct Marketing Association:

(No Appearance.)

On behalf of Financial Services Roundtable:

(No Appearance.)

On behalf of Greeting Card Association:

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(No Appearance.)

On behalf of National Association of Presort Mailers:

(No Appearance.)

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On behalf of David Popkin:

(No Appearance.)

On behalf of the Public Representative:

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APPEARANCES: (Cont'd.)

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P R O C E E D I N G S

(10:02 a.m.)

CHAIRMAN GOLDWAY: Good morning. This hearing will come to order. Happy new year to all of those of you who we haven't seen since the world has changed from 2011 to 2012.

This is a prehearing conference in Docket No. N2012-1 considering the Postal Service's request for an advisory opinion concerning the Postal Service's plan for mail processing network rationalization and its associated service changes.

For the record, I am Ruth Goldway, Chairman of the Postal Regulatory Commission, and joining me on the dais this morning are Vice Chairman Langley, Commissioner Acton and Commissioner Taub.

I'd like to begin by not only wishing everyone a happy new year but noting that we have a new organization among our Commissioners as of 2012. Nanci Langley is now our vice chairman, and I want to thank Mark Acton for his service as vice chairman for the last year and a half. We've gone through several changes, including losing some Commissioners and gaining others, but we try to work as a team, and I think the smooth transition of vice chairs is an indication that we do that.

1 These are not easy times for the Postal
2 Service. They're certainly not easy times for the
3 Commission in its work to respond to the Postal
4 Service's and the postal community's needs. Our staff
5 is small and our workload is great, and people worked
6 long hours all through the holidays to continue to
7 meet the challenges that we have.

8 But I just wanted to indicate that we're
9 hopeful that 2012 will provide us with some new
10 direction for the Postal Service and the postal
11 community and that the Commission feels that it is
12 trying to do its part in a very positive way to make
13 sure that that direction assures a continuing and
14 vital Postal Service for the nation.

15 One point I'd like to make about the issues
16 in front of us today is that the Commission has to
17 balance the requirements of the Postal Service and the
18 expectations of the community to make a decision
19 quickly and speedily with our obligations to provide a
20 fully open record that follows the administrative code
21 and provides people with due process. Balancing those
22 two major concerns is not easy, and we will try our
23 best to move forward in a way that we think is fair
24 and balances everybody's interests.

25 The meeting this morning is the first step

1 in our efforts to come up with the right work plan to
2 address the advisory opinion request that's before us,
3 so please give us some of your thoughts and please
4 recognize that we will do the best to balance
5 everyone's concerns.

6 With that, I'd like to give my colleagues an
7 opportunity to say something if they'd like to,
8 beginning with our vice chairman, Nanci Langley.

9 VICE CHAIRMAN LANGLEY: Thank you, Madam
10 Chairman, and thank you for the kind words. I too
11 wish to thank Mark Acton for the great service he
12 provided. He is always knowledgeable and always is
13 willing to help everyone out when needed. I also wish
14 to thank the Chairman for her confidence in me as well
15 as Commissioner Taub. I appreciate the honor.

16 And of course happy new year to everyone who
17 is in the audience and listening via webcast. As the
18 Chairman said, we have a full schedule ahead of us
19 this year. This advisory opinion is the fourth one
20 that the Postal Service has sought from the Commission
21 since July of 2009, so we have been working hard not
22 only on advisory opinions, which are very important as
23 an informational tool for Congress and for the
24 Administration and especially the Postal Service. It
25 has helped guide the Postal Service in its latest

1 decisions regarding reorganization and
2 rationalization, so I'm hopeful that what we do on
3 this particular advisory opinion also provides the
4 assistance that we all seek.

5 And I just would like to say that this
6 Commission will continue to work in the way it has on
7 the past three advisory opinions, so I do look forward
8 in tackling the tremendous challenges facing the
9 Postal Service right now. Thank you.

10 CHAIRMAN GOLDWAY: And Commissioner Taub?

11 COMMISSIONER TAUB: I'll pass.

12 CHAIRMAN GOLDWAY: Commissioner Acton?

13 COMMISSIONER ACTON: Madam Chairman, I just
14 want to stress your point about the import of the
15 procedural schedule and congratulate you and the
16 management team on bringing our last advisory opinion
17 in on time. Regardless of how you feel about the
18 content, we did a really good job of managing our
19 delivery of that product, and I'm looking forward to a
20 similar sort of accomplishment with this new advisory
21 opinion. Thank you.

22 CHAIRMAN GOLDWAY: The record for this case
23 is much more extensive than the others, so I'm not
24 sure if the timeframe that we've had for the last
25 advisory opinion will hold for this one, but I

1 certainly recognize your ongoing interest in
2 facilitating fast decisions, and we'll do everything
3 we can.

4 All right then. We've completed our
5 comments. Thank you for your interest, and we'll
6 proceed. In this docket the Commission will review a
7 Postal Service proposal to revise service standards
8 for first class mail, periodicals, package services
9 and standard mail. The most significant revisions
10 would eliminate the expectation of overnight service
11 for significant portions of first class mail and
12 periodicals.

13 The service standard changes allow for a
14 significant consolidation of the Postal Service's
15 processing and transportation networks to better match
16 current and projected mail volumes. The Postal
17 Service estimates that this may result in cost savings
18 of \$2.1 billion annually.

19 Today the Commission will hear comments and
20 proposals from the participants and the Postal Service
21 concerning the establishment of a procedural schedule.
22 This will include consideration of the need for one or
23 more technical conferences, the amount of time
24 necessary for discovery on the Postal Service's direct
25 case and, assuming there will be rebuttal testimony,

1 the amount of time necessary to prepare rebuttal
2 testimony. Proposals for an overall procedural
3 schedule and proposals to establish any special
4 procedures necessary to expedite this docket also will
5 be welcome.

6 I would like to remind those in the audience
7 today that this hearing is being web broadcast. In an
8 effort to reduce potential confusion, I ask that
9 counsel wait to be recognized before speaking and to
10 please identify yourself when commenting. After you
11 are recognized, please speak clearly so that our
12 microphones may pick up your remarks.

13 At this point, I would like counsel to
14 identify themselves for the record. United States
15 Postal Service?

16 MR. TIDWELL: Good morning, Madam Chairman.
17 Michael Tidwell for the United States Postal Service,
18 accompanied by Kenneth Hollies.

19 On the case with us are also colleagues
20 Matthew Connolley, Keith Nusbaum. Mr. Nusbaum is new
21 to the Postal bar. We welcome him to the practice.
22 Also with us is Carrie Brownlee, who is new to the
23 Postal Service and the Postal Bar. We also welcome
24 her.

25 Colleague Jim Mecone is not present today.

1 When next you see him ask for baby pictures. He will
2 whip them out in haste. Brandy Osimokun is not here
3 today. She is with child, having recently delivered a
4 daughter. Nabeel Cheema is not here today. He is
5 with his wife as they are visiting the doctor in
6 anticipation of delivery of twins very soon.

7 CHAIRMAN GOLDWAY: Well, I'm glad the Postal
8 Service is making sure that there's new readers of
9 mail coming forward in our country.

10 Okay then. We'll begin with other
11 participants. The Alliance of Nonprofit Mailers?
12 Anyone here from there today?

13 (No response.)

14 CHAIRMAN GOLDWAY: The American Postal
15 Workers Union, AFL-CIO?

16 MR. ANDERSON: Darryl Anderson. Good
17 morning.

18 CHAIRMAN GOLDWAY: Association for Postal
19 Commerce?

20 (No response.)

21 CHAIRMAN GOLDWAY: Douglas F. Carlson?

22 (No response.)

23 CHAIRMAN GOLDWAY: Direct Marketing
24 Association?

25 (No response.)

1 CHAIRMAN GOLDWAY: Financial Services
2 Roundtable?
3 (No response.)
4 CHAIRMAN GOLDWAY: Greeting Card
5 Association?
6 MR. STOVER: David Stover representing GCA.
7 CHAIRMAN GOLDWAY: Magazine Publishers of
8 America, Inc.?
9 (No response.)
10 CHAIRMAN GOLDWAY: National Association of
11 Letter Carriers?
12 MR. DeCHIARA: Peter DeChiara from the law
13 firm of Cohen, Weiss & Simon.
14 CHAIRMAN GOLDWAY: National Association of
15 Postmasters of the United States?
16 (No response.)
17 CHAIRMAN GOLDWAY: National Association of
18 Presort Mailers?
19 (No response.)
20 CHAIRMAN GOLDWAY: National Newspaper
21 Association?
22 MS. RUSH: Tonda Rush for National Newspaper
23 Association.
24 CHAIRMAN GOLDWAY: National Postal Mail
25 Handlers Union?

1 MS. KELLER: Kathleen Keller from the law
2 firm of Bredhoff & Kaiser. With me is my colleague,
3 Andrew Roth, for the NPMHU.

4 CHAIRMAN GOLDWAY: National Postal Policy
5 Council?

6 MR. BAKER: William Baker for the National
7 Postal Policy Council.

8 CHAIRMAN GOLDWAY: The City of New Orleans?
9 (No Appearance.)

10 CHAIRMAN GOLDWAY: The Newspaper Association
11 of America?

12 MR. BAKER: William Baker for the NAA.

13 CHAIRMAN GOLDWAY: Pitney Bowes, Inc.?

14 MR. SCANLON: Michael Scanlon for Pitney
15 Bowes.

16 CHAIRMAN GOLDWAY: David Popkin?

17 (No response.)

18 CHAIRMAN GOLDWAY: Public Representative?

19 MR. LAVER: Christopher Laver for the Public
20 Representative.

21 CHAIRMAN GOLDWAY: Time, Inc.?

22 (No response.)

23 CHAIRMAN GOLDWAY: Valpak Dealers
24 Association, Inc.?

25 MR. MORGAN: Jeremiah Morgan for Valpak

1 Dealers Association as well as Valpak Direct Marketing
2 Systems.

3 CHAIRMAN GOLDWAY: Okay. The Commission
4 received a late notice of intervention from the Parcel
5 Shippers Association. Consistent with Commission
6 practice, this notice was accompanied by a motion for
7 late acceptance, and I will grant this motion pending
8 any objections.

9 Is there anyone here from the Parcel
10 Shippers Association?

11 MR. SCANLON: Michael Scanlon for PSA.

12 CHAIRMAN GOLDWAY: The Commission also
13 received a late filing from Lance McDermott. This
14 filing was not accompanied by a motion for late
15 acceptance, however, nor did the filing provide all
16 the information required by the rules for
17 intervention. For now I will treat this filing as
18 comments pursuant to Rule 3001.20(b). If this was not
19 Mr. McDermott's intent, he may file a motion for late
20 acceptance, including a complete notice of
21 intervention, for my consideration.

22 Is Mr. McDermott here today?

23 (No response.)

24 CHAIRMAN GOLDWAY: Perhaps he's listening on
25 the web and hears this information and can respond.

1 Thank you.

2 Is there anyone here I've missed who would
3 like to participate?

4 (No response.)

5 CHAIRMAN GOLDWAY: If not, thank you for
6 your attendance.

7 The Postal Service believes that
8 restructuring of its mail processing network provides
9 an opportunity for savings. Given its current
10 financial condition, rapidly implementing the
11 restructuring plan may be beneficial. Therefore, the
12 Postal Service has asked the Commission to consider
13 all possible ways to expedite and streamline this
14 proceeding.

15 The Commission shares this interest in
16 moving promptly. A streamlined procedural schedule
17 will be established which also provides the due
18 process necessary to allow the Commission and all
19 participants an opportunity to explore the Postal
20 Service's proposals. This should result in a well
21 informed and meaningful advisory opinion.

22 This prehearing conference has been
23 scheduled to better inform the Commission of the
24 amount of discovery likely to be needed and to
25 understand the expectations of the participants on

1 bringing this case to a timely conclusion.

2 One way to facilitate discovery is to
3 convene a technical conference for the purpose of
4 developing a better understanding of the issues
5 presented by this docket. The Commission is
6 considering scheduling a technical conference within
7 the next week or so.

8 Would any of the participants also find a
9 technical conference useful in this proceeding? If
10 possible, when commenting please indicate what topics
11 might be of interest for discussion. Are there any
12 comments?

13 MR. TIDWELL: Madam Chairman, Michael
14 Tidwell for the Postal Service. The Postal Service
15 would reiterate that in conjunction with the filing of
16 its request it solicited interest by the parties
17 regarding technical conferences for any of the
18 testimony that is more complex or technically
19 challenging.

20 To date, we have not received any requests
21 for technical conferences. Our invitation still
22 stands, and if there are parties who would wish to
23 arrange for them or the Commission staff, we are eager
24 to hear from them.

25 CHAIRMAN GOLDWAY: Thank you. I appreciate

1 your cooperation. I think Mr. Baker was -- no. Mr.
2 Stover. Mr. Stover?

3 MR. STOVER: Preliminarily and subject to --

4 CHAIRMAN GOLDWAY: Just identify yourself
5 for the record, please.

6 MR. STOVER: I'm sorry, Madam Chairman.
7 David Stover for the Greeting Card Association. I
8 believe that we would like to arrange with Mr. Tidwell
9 and his colleagues a technical conference particularly
10 as it regards Witness Rosenberg.

11 CHAIRMAN GOLDWAY: With?

12 MR. STOVER: With, yes.

13 CHAIRMAN GOLDWAY: I didn't hear the last
14 word.

15 MR. STOVER: Witness Rosenberg, Madam Chair.

16 CHAIRMAN GOLDWAY: Witness Rosenberg. Okay.

17 MR. STOVER: Thank you.

18 CHAIRMAN GOLDWAY: Thank you. Any other
19 comments? The Public Representative?

20 MR. LAVER: Madam Chairman, the Public
21 Representative would also be interested in scheduling
22 a technical conference with Witness Rosenberg,
23 especially as it pertains to the optimization model.

24 We think it might be most beneficial to have
25 a few weeks before it, however, just so that we have

1 time to review the contours of what we have in the
2 record on the optimization model before we go forward
3 with that.

4 CHAIRMAN GOLDWAY: Any other comments?
5 (No response.)

6 CHAIRMAN GOLDWAY: If you feel that you need
7 more than a week, I would like to have that request in
8 writing to explain why a longer time is necessary.

9 As a reminder, technical conferences are off
10 the record. The conferences are designed to allow
11 participants to ask how type questions and not why
12 type questions, for example, how is one spreadsheet
13 related to another. The conferences have been useful
14 in the past to eliminate confusion about general
15 methodologies and allow more focused discovery
16 questions.

17 Technical conferences are not part of the
18 formal evidentiary record, but what is discussed
19 during a technical conference can lead to focused
20 discovery that can be entered into the evidentiary
21 record portion of the proceedings.

22 To allow the Postal Service to have the
23 appropriate personnel available for a technical
24 conference I would like any interested participants to
25 also formally express their interest to the Commission

1 in writing by the close of business this Friday.
2 Participants should clearly identify the topics that
3 are of interest for discussion and be as specific as
4 possible by, for example, identifying particular
5 testimony or library references of interest.

6 Have I missed anyone who wanted to make a
7 comment? Was there any other request?

8 MR. TIDWELL: Madam Chairman?

9 CHAIRMAN GOLDWAY: Mr. Tidwell?

10 MR. TIDWELL: Michael Tidwell again for the
11 Postal Service. The Postal Service would invite those
12 interested in a technical conference with Witness
13 Rosenberg to meet with counsel or communicate with
14 counsel as soon as possible regarding potential
15 scheduling.

16 There is at least one critical member of
17 Network Operations staff who has been working with Ms.
18 Rosenberg who is about to take a leave of absence
19 because his wife is due to deliver a child and so we
20 want to try to accommodate his schedule in scheduling
21 the conference, so I'd appreciate being able to talk
22 to folks as soon as possible about when we might want
23 to try to arrange things.

24 CHAIRMAN GOLDWAY: Well, if we have written
25 comments by Friday, perhaps we can all then work out a

1 schedule that accommodates everyone's needs.

2 Discovery has been permitted upon
3 intervention in this proceeding, which means that
4 several weeks have already been allowed for discovery.
5 At this time we would like to hear from participants
6 concerning how much additional time they would like to
7 conclude discovery on the Postal Service's direct
8 case.

9 The Postal Service has asked to expedite
10 this proceeding, and everyone recognizes it is
11 currently facing a difficult financial challenge. If
12 any participant requests more than 30 additional days
13 of discovery, they should submit in addition to any
14 oral comments that are made today written
15 justification for that request by close of business
16 this Friday. The justification should discuss the
17 issues that need to be explored and note any problems
18 that have surfaced with discovery thus far.

19 Who would like to begin? Any responses?
20 Please identify yourself.

21 MR. ANDERSON: Yes. Darryl Anderson for the
22 American Postal Workers Union. Madam Chairman and
23 Commissioners, there is a fundamental issue that will
24 make it difficult to proceed as rapidly as everyone
25 might wish in this case, and that is the availability

1 of AMP study results.

2 It is our understanding that this is a key
3 component of the Postal Service's affirmative case in
4 which they bear the burden of proof, yet we don't have
5 the AMPs at this point in the record of course and
6 won't have a chance to evaluate them for systemic
7 problems or to aggregate them in any way and to
8 provide a comparison of the possible benefits of this
9 process to compare to the possible damage that may be
10 caused.

11 I have some somewhat similar comments to
12 make about other aspects of this case and the
13 difficulty of discovery, but I think the lack of the
14 AMP studies for us to examine is a fundamental
15 problem, and due process would require that we have
16 those and be able to analyze them in order to respond
17 to the Postal Service's affirmative case.

18 I think I should probably desist from
19 elaborating on my other points on other aspects of
20 this case at this point, but I think that's a
21 fundamental point that the Commissioners need to focus
22 on, as does the Postal Service.

23 CHAIRMAN GOLDWAY: Well, I'd appreciate it
24 if you could prepare this in writing for us to review.

25 MR. ANDERSON: Certainly, Madam Chairman.

1 That will be done.

2 CHAIRMAN GOLDWAY: Is there anyone else
3 who'd like to speak on this matter?

4 MS. KELLER: Thank you, Madam Chair.
5 Kathleen Keller for the Mail Handlers Union. I'd like
6 to echo what my colleague from the Postal Workers
7 Union has just stated about the AMP.

8 The Postal Service's own witnesses have
9 stressed how fundamental the AMP process is to
10 determining what will actually happen in this case,
11 how much savings they'll actually be able to achieve
12 through this network realignment. And while I am
13 fully appreciative of the constraints that the Postal
14 Service is in and the need to expedite this so that we
15 can get a fully informed and fair decision in a timely
16 manner, I'm also concerned about our ability to
17 complete discovery without those AMP studies in hand.

18 I think as Madam Chair has indicated,
19 discovery has been open for some time now, and we have
20 at least a portion of the Postal Service's case before
21 us and it's certainly appropriate to proceed apace
22 with discovery on that portion. However, what I would
23 like to hear from the Postal Service prior to our
24 filing anything in writing with the Commission is when
25 they expect to have these AMP studies done.

1 It's my understanding there are several
2 hundred out there. It's my understanding that at
3 least half of those they've already had the public
4 hearings on. There's about 75 or so that the public
5 comment period closed more than two weeks ago, so I
6 think we should be able to see the bulk of them
7 relatively soon, but I would like to ensure that we
8 have adequate time after these AMP studies come out to
9 be able to examine them fully and fairly and be able
10 to conduct some real discovery on the results of those
11 studies.

12 As the Postal Service itself says, these are
13 feasibility studies, and right now we are sitting in a
14 position where we do not know if the Postal Service
15 even considers its own plan feasible. They have not
16 yet concluded these studies and have not yet made that
17 determination as to whether this realignment is
18 feasible in whole or in part, and until we know what
19 the Postal Service thinks about that it's extremely
20 difficult for us to be able to fairly test those
21 assertions.

22 CHAIRMAN GOLDWAY: Do you have a comment,
23 Mr. Tidwell?

24 MR. TIDWELL: Yes, Madam Chairman. Michael
25 Tidwell again on behalf of the Postal Service. The

1 Postal Service would observe that in Docket N2006-1 we
2 were similarly situated where the Postal Service
3 presented a network rationalization, service changes
4 related to a network rationalization plan to the
5 Commission for review well before the AMPs associated
6 with that plan were completed and realized.

7 The key to the case is the service changes
8 that would flow from network rationalization, and
9 those are we think adequately described in the record
10 in the case so far, and the question for the
11 Commission is whether those changes, those service
12 changes, would conform to the policies of the Act.

13 We just completed Docket N2011-1, which
14 pertained to the potential for a discontinuance of up
15 to or more than 3,000 post offices, stations and
16 branches. There was a request filed before any
17 determination had been made whether to close any of
18 those stations or branches or post offices, and in
19 fact under the present moratorium none of them will be
20 closed until May.

21 The Commission was able to manage that
22 docket and bring it to a conclusion without knowing
23 specifically which post office or station or branch
24 was going to be closed because the issue again was the
25 nature of the service changes were laid out on the

1 record and the question was not whether what was going
2 to happen to a specific post office or station or
3 branch but whether the service changes that would
4 result would conform to the policies of the Act.

5 So there's precedent here, and I think that
6 the Commission should bear that in mind in responding
7 to the concerns expressed by the parties.

8 MR. ANDERSON: May I respond, Madam
9 Chairman?

10 CHAIRMAN GOLDWAY: Certainly. Please
11 identify yourself.

12 MR. ANDERSON: I'm sorry. Darryl Anderson
13 for the APWU. There are really important differences
14 between what's going on in this case and the other
15 cases referenced by Mr. Tidwell.

16 N2006-1 was the N case, as the Commission
17 will recall, and similarly -- well, with that, let me
18 just start with that. The Postal Service's assertion
19 in that case was that while service might be affected
20 in certain isolated instances or that there might be a
21 nationwide pattern of limited service impacts that it
22 was not a wholesale change in service.

23 Here the matter is quite different, and for
24 the Postal Service to suggest that it's okay to go
25 forward with very fundamental and very important

1 service changes on the hypothetical possibility that
2 they can be justified by what's going to come later is
3 inappropriate and denies due process to those who were
4 affected by those changes. So this is a very
5 different matter. N2006-1 has no bearing on how
6 procedures should be followed in this case.

7 Similarly, the post office, stations and
8 branches case, of course with all due respect to the
9 Postal Service, there were serious problems, I think
10 the Commission would agree, with the way the Postal
11 Service proceeded with its analysis in that case. If
12 anything, that case is a lesson for the importance of
13 deliberation and thorough analysis prior to taking
14 changes with important public policy ramifications as
15 the changes in this case would have.

16 So the analysis should come first here. Our
17 position is the analysis must come first here. We
18 hope the Commission will agree that it should or must
19 come first here and that those other examples are not
20 on point.

21 CHAIRMAN GOLDWAY: Well, we do have a
22 procedure to further this debate in writing. I would
23 like to point out that in the N case of 2006 the
24 Commission had to take a very long time before it
25 could make a final decision. The process took close

1 to a year I believe, and it was because we were slow
2 in getting AMP data and then used AMP data in that
3 decision.

4 What I think the Postal Service should do in
5 addition to the arguments that it's outlined today is
6 to respond to the Mail Handlers' request for a
7 timeline as to when you think the information that's
8 in process could be available should the Commission
9 determine that we would need to wait for it before we
10 proceeded or wait for some of it before we proceeded.

11 So, in addition to your arguments, I'd like
12 that information, and I would expect that perhaps the
13 two Intervenors here might also think about what
14 portion of AMP data might be acceptable rather than
15 waiting for all of it before the process could begin,
16 and we'll hear from you all in writing.

17 Is there anyone else who wants to comment on
18 this?

19 MR. LAVER: Madam Chairman, Chris Laver on
20 behalf of the Public Representative. Not directly
21 related to the AMP but related to both initial
22 discovery and rebuttal discovery timelines, the Public
23 Representative feels we will need more than 30 days
24 simply because the first issue is with Witness
25 Rosenberg and the optimization model.

1 At the moment, because of the proprietary
2 software, there's very limited information available
3 on the optimization model. Perhaps working with
4 Postal Service counsel and the GCA organizing a
5 technical conference we'll be able to get more
6 information about it, but that is something we
7 envision taking a significant amount of time.

8 Second of all, the Postal Service has
9 justified the case in part by both productivity gains
10 and cost savings, and in order to flesh out the record
11 with that, it will take a significant amount of time.
12 Witness Neri does not have a whole lot of supporting
13 data available at the moment in terms of productivity
14 gains, and we would like time to fully explore those
15 issues.

16 CHAIRMAN GOLDWAY: I appreciate that. We're
17 now at the point where we can discuss rebuttal
18 testimony. Does anybody here in the audience
19 anticipate filing rebuttal testimony?

20 MR. ANDERSON: Madam Chairman, if I may?
21 Pardon me, sir, Mr. DeChiara.

22 CHAIRMAN GOLDWAY: Mr. Anderson?

23 MR. ANDERSON: Darryl Anderson for the APWU.
24 I did want to raise one additional discovery issue if
25 I may, and we will of course submit it in writing as

1 the Chairman has directed. But notable here is a
2 complete absence of any correlation by the Postal
3 Service of the impact of this case with the impact of
4 other pending changes. This is very troubling, and I
5 hope it's something the Commission will require that
6 it be remedied.

7 It seems to me the Postal Service should be
8 requested, and we'll propose this in writing perhaps,
9 but should be requested to provide a policy or
10 overview witness who can somehow correlate the
11 interaction between what's being proposed here and
12 what's being proposed, for example, in the six day
13 versus five day delivery case and in the closure of
14 retail facilities.

15 These are all very serious changes. To
16 isolate each of them in a separate corridor of
17 consideration for the Commission's advice is to fail
18 to stand back and view the impact on the Postal
19 Service and the postal community. We are deeply
20 concerned about the impact of these service changes,
21 the diminution of service, on the value of the postal
22 product.

23 We intend to ask that the Postal Service
24 provide an analysis of that, and I think that that may
25 if the Commission is interested in that direction

1 require some discovery, and it certainly would extend
2 beyond 30 days I would believe, but we'll submit
3 something in writing.

4 CHAIRMAN GOLDWAY: Well, I'll simply point
5 out that in the decision, our most recent decision on
6 the N case, we did advise the Postal Service that it
7 should review the overlapping impact of its various
8 initiatives, so I think your point is well taken. How
9 we address it in this proceeding we will consider when
10 we hear and read everybody's comments.

11 MR. ANDERSON: Thank you for permitting me
12 to make that point, Madam Chairman.

13 CHAIRMAN GOLDWAY: And now we have the
14 Letter Carriers. We're discussing rebuttal testimony
15 now.

16 MR. DeCHIARA: Good morning, Madam Chairman.
17 Peter DeChiara from the law firm of Cohen, Weiss &
18 Simon for the National Association of Letter Carriers.
19 I'd like to address the issues of both discovery and
20 rebuttal.

21 First I would like to second the comments
22 made by the two other labor organizations, but apart
23 from the issues that they have raised, the National
24 Association of Letter Carriers believes that there
25 should be a substantial amount of time for discovery

1 in this case. We would propose no less than 45 days
2 from the day the Commission issues its scheduling
3 order, and we will of course submit something in
4 writing to that effect by the close of business on
5 Friday.

6 But let me just mention that it's the view
7 of the National Association of Letter Carriers that
8 much like in the Saturday delivery case that the
9 Postal Service's analysis here is plagued by the same
10 sorts of methodological flaws that existed in that
11 case that caused the Postal Service to overestimate
12 its potential savings and to underestimate its
13 potential revenue loss.

14 In the Saturday delivery case the National
15 Association of Letter Carriers sponsored an economic
16 witness who I think helped inform the Commission, and
17 it's our hope and intention to do a similar
18 presentation in this case.

19 Unfortunately, the National Association of
20 Letter Carriers has not finalized its discussions with
21 potential expert witnesses, and therefore we have up
22 until today not been able to pursue discovery, but it
23 is our hope and intention to do so. So, in order to
24 do the right kind of in-depth discovery that we think
25 will help inform this Commission's inquiry, we believe

1 we need more than 30 days and at least 45 days.

2 And then as to the rebuttal point, if the
3 National Association of Letter Carriers does retain an
4 expert witness, we will use that witness for rebuttal,
5 and we would request at least 45 days from the time
6 that the Postal Service's testimony is entered into
7 the record in order to present that rebuttal
8 testimony.

9 We believe that the proposed changes the
10 Postal Service is proposing in this matter are
11 serious, and there should not be any sort of a rush to
12 judgment by the Commission in this matter.

13 CHAIRMAN GOLDWAY: Any other comments about
14 rebuttal? Anyone else anticipating that they will
15 have rebuttal testimony?

16 MR. ANDERSON: Darryl Anderson for the APWU.
17 We are exploring the possibility of preparing rebuttal
18 testimony.

19 I take Mr. DeChiara's point that an aspect
20 of our consideration is it may also require further
21 discovery on our part. We have tried our best to
22 promulgate interrogatories that will push the
23 discovery process as rapidly as possible, but on the
24 issue of alternatives, it seems to me that once again
25 the Postal Service has failed to present to the

1 Commission any analysis of alternatives that might
2 preserve service.

3 I mean, a looming question in this case
4 seems to me must be what alternative closure of mail
5 processing facilities, what alternative might permit
6 the Postal Service to preserve service or preserve
7 more service and what is the tradeoff between savings
8 and service at a different break point and how might
9 the Postal Service devise a strategy for achieving
10 that rather than simply permitting its desire to save
11 costs to drive down its provision of service.

12 And we would like to be able to present an
13 alternative if we can that would show an alternative
14 that would be more constructive for delivery of postal
15 services while also saving the Postal Service money.

16 I know the Commission is well aware. I know
17 that the Inspector General's Office has done a
18 theoretical construct, which has never been wedded to
19 the bricks and mortar reality of the Postal Service,
20 but I think that's the exercise the Postal Service
21 should have done if it hasn't in a way that would
22 permit alternatives to be developed.

23 So that's where we're going. I recognize
24 that sounds awfully difficult and I think it is
25 difficult, but I think the importance of this matter

1 justifies the difficulty of the undertaking, and we
2 intend to undertake that if we possibly can, and we're
3 talking to experts on an ongoing basis to see what we
4 can develop.

5 CHAIRMAN GOLDWAY: Thank you. Ms. Rush?

6 MS. RUSH: Thank you, Madam Chairman. The
7 National Newspaper Association most likely will submit
8 some rebuttal testimony.

9 I'd like to join Mr. Anderson's concern
10 about knowing more about the facilities studies before
11 we make a decision about how we may proceed. Not to
12 jump too much into the factual discovery in this case,
13 but one of the issues that newspaper publishers are
14 concerned about and are addressing in these hearings
15 is the degree to which transfer hubs will be created
16 for mail that are in five digit and higher containers.

17 It remains to be seen yet, although the
18 Postal Service has expressed its intention of
19 exploring those options, whether those will
20 materialize and the degree to which the discussions
21 going on in the regional or local hearings will flesh
22 out the need for those alternatives and the degree to
23 which the Postal Service will be able to respond.

24 Trying to understand better where that all
25 is headed will be key to our figuring out what we may

1 do in rebuttal, and I think I join with APWU in the
2 concern that having some more information from the
3 Postal Service about its own conclusions from these
4 hearings will be material in our understanding how our
5 members will be affected.

6 CHAIRMAN GOLDWAY: Public Representative?

7 MR. LAVER: Madam Chairman, Christopher
8 Laver on behalf of the Public Representative. We
9 would like also to request some time for rebuttal
10 here.

11 The witnesses we've been in contact with to
12 attempt to procure have all indicated this is a
13 significant time investment both to look at the
14 optimization model as well as to look at the excess
15 capacity issues that are brought forward in the
16 testimony.

17 So we would like to echo National
18 Association of Letter Carriers' counsel in terms of
19 needing about 45 days of rebuttal discovery in order
20 to have our expert or experts if we can procure more
21 than one to review the case.

22 MS. KELLER: Kathleen Keller for the
23 National Postal Mail Handlers Union. Mail Handlers
24 also believe it's likely that we will be submitting
25 rebuttal testimony.

1 And again, not to reiterate that what's
2 already been said, but part of what we intend to look
3 at in this case is whether the network
4 rationalization, as the Postal Service has styled it,
5 is indeed rational and feasible. And it's very
6 difficult to do that without having the results of at
7 least the bulk of or the larger, more important, AMP
8 studies to know what the Postal Service is intending
9 on moving forward with and whether that will in fact
10 lead to a more rational distribution network and lower
11 costs for the Postal Service.

12 CHAIRMAN GOLDWAY: Anyone else on rebuttal?

13 MR. BAKER: Good morning, Madam Chairman.
14 William Baker speaking both for the National Postal
15 Policy Council and the Newspaper Association of
16 America.

17 While both of those clients are currently
18 evaluating their position, I think I can say they are
19 certainly not thrilled with the prospect of reduced
20 service standards. They are also not thrilled with
21 the prospect of the Postal Service continuing to lose
22 money on a monthly basis.

23 And I would say that the testimony, we don't
24 know if either party would file testimony, rebuttal
25 testimony, but if they do, it would be in the nature

1 of impact because our concern is whether the Postal
2 Service's filing has adequately considered the volume
3 effects of the service changes. I think we don't have
4 a specific request for timing. I think if we did such
5 testimony it could be done within the usual period the
6 Commission allows for such testimony.

7 CHAIRMAN GOLDWAY: Thank you. Any other
8 comments on discovery or rebuttal?

9 (No response.)

10 CHAIRMAN GOLDWAY: If not, do any of the
11 participants' counsel have a scheduling conflict in
12 the coming months that I should be aware of at this
13 time? Mr. Tidwell, are you expecting?

14 (Laughter.)

15 MR. TIDWELL: Not to my knowledge.

16 CHAIRMAN GOLDWAY: Well, you have until
17 Friday to assess your calendars and let us know about
18 those issues as well. We will take all of those items
19 under consideration.

20 Before we conclude today, are there any
21 other general proposals? Oh, I'm sorry.

22 MR. DeCHIARA: Just a question, Madam
23 Goldway. I and I assume others do as well have
24 various dates over the next few months that I'm not
25 available. Would you like us when we submit our

1 submissions in writing by Friday to include dates?

2 CHAIRMAN GOLDWAY: Yes, by all means.

3 MR. DeCHIARA: Okay. Thank you.

4 CHAIRMAN GOLDWAY: That would be helpful.
5 I'm not sure that we can --

6 MR. DeCHIARA: Understood.

7 CHAIRMAN GOLDWAY: -- meet everybody's
8 concerns and needs, but we will do our best to
9 consider those.

10 MR. DeCHIARA: Thank you very much.

11 CHAIRMAN GOLDWAY: Before we conclude today,
12 are there any other general proposals concerning an
13 overall procedural schedule or special procedures that
14 should be put in place in this docket to expedite the
15 schedule that should be considered?

16 MS. KELLER: Madam Chair, I have one
17 question to pose to the Postal Service which may
18 inform the issue of scheduling, and that is I don't
19 know whether the Postal Service intends to introduce
20 supplementary or revised testimony regarding their
21 cost savings and estimates after the AMP studies have
22 been completed. And if the Postal Service will be
23 submitting revised or adjusted testimony, that may
24 impact the scheduling of the close of the primary
25 stage of discovery.

1 CHAIRMAN GOLDWAY: For the record, that's
2 the Mail Handlers Union representative, Ms. Keller.
3 Do you have a comment on that, Mr. Tidwell?

4 MR. TIDWELL: Yes, Madam Chairman. Michael
5 Tidwell. Does the Postal Service have a plan to
6 submit revised testimony at this time? No. Is it
7 possible that additional data may be forthcoming as
8 administrative decisions are made regarding AMPs that
9 could better inform the record? That's a possibility.

10 If the Chairman will recall, in Docket
11 N2006-1 there were some AMP decisions made during the
12 course of litigation, and the Postal Service provided
13 copies of the final decisions for the record. I
14 anticipate that that may well occur during the course
15 of this litigation and we would follow the same
16 course.

17 CHAIRMAN GOLDWAY: I appreciate it. And the
18 Postal Service has been more forthcoming with
19 information in general as a result of responding to
20 inquiries of ours and of the Intervenors. That's just
21 a factor, but if the Postal Service has some specific
22 response about the dates when it expects a significant
23 number of AMPs to be concluded, that may give us some
24 help in establishing a timeframe. That was the issue
25 I had asked you to address earlier in our discussion.

1 MR. TIDWELL: The best I could say is in the
2 next several months we can anticipate that a number of
3 decisions may be made and announced as a part of the
4 normal AMP decisionmaking process. When that occurs
5 we will supplement the record accordingly.

6 If you'll bear with me for a second?

7 (Pause.)

8 MR. TIDWELL: Beyond that, Madam Chairman,
9 the Postal Service would request the opportunity once
10 it has a chance to review the pleadings submitted by
11 the parties on Friday to prepare a response on Monday
12 to them.

13 CHAIRMAN GOLDWAY: I think that that's
14 reasonable.

15 MR. TIDWELL: Thank you.

16 CHAIRMAN GOLDWAY: It certainly is. Okay.
17 Well, I thank everybody for expressing their concerns.

18 COMMISSIONER ACTON: I just want to add --

19 CHAIRMAN GOLDWAY: Certainly.

20 COMMISSIONER ACTON: -- Madam Chairman, that
21 of course when I spoke earlier about the need for
22 expeditious review I was not trying to preclude
23 completing the work as quickly as due process will
24 allow, and it's been very helpful to hear from counsel
25 today about a lot of the special challenges, so thank

1 you for your advice.

2 CHAIRMAN GOLDWAY: I thank everyone for
3 expressing their concerns and desires concerning the
4 procedural schedule. The comments will be kept in
5 mind when establishing a schedule that balances the
6 Postal Service's request for expedition with the due
7 process necessary for interested participants to fully
8 understand, analyze and reply to the Postal Service's
9 proposals.

10 Recognizing that intervening events may
11 affect the schedule, it is the Commission's goal to
12 adhere to a reasonable but expedited schedule to
13 develop a record and issue an advisory opinion as
14 requested by the Postal Service.

15 After considering any additional written
16 comments I receive by this Friday and the response
17 from the Postal Service on Monday, I will issue a
18 ruling establishing the schedule and any special
19 procedures to be followed.

20 Does any participant have any other
21 procedural matter to raise at this time with regard to
22 this docket?

23 (No response.)

24 CHAIRMAN GOLDWAY: If not, I thank you all
25 for coming. I agree with Commissioner Acton that

1 hearing your concerns in person is always helpful to
2 us to enrich our understanding of the record.

3 And there being nothing further, this
4 prehearing conference is adjourned.

5 (Whereupon, at 10:51 a.m., the prehearing
6 conference in the above-entitled matter was
7 concluded.)

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REPORTER'S CERTIFICATE

DOCKET NO.: N2012-1
CASE TITLE: Mail Processing Network
Rationalization Service Changes
HEARING DATE: January 4, 2012
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the United States Postal Regulatory Commission.

Date: January 4, 2012

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